

ORDINANCE 06-32

AN ORDINANCE ESTABLISHING A PROGRAM FOR THE ASSISTANCE OF PROPERTY OWNERS IN ELIMINATING SEPTIC TANKS AND WELLS IN THE TOWN OF WESTFIELD, INDIANA

WHEREAS, on March 2, 1964 the Board of Trustees of the Town of Westfield, Indiana (the "Town") adopted Ordinance No. 1964-3 regulating the connection to and use of public and private sewers and drains, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system of the Town and providing penalties for violations thereof; and,

WHEREAS, on April 8, 1985 the Town Council for the Town (the "Council") adopted Ordinance No. 250 which amended and updated Ordinance No. 1964-3; and

WHEREAS, on October 13, 2003 the Council for the Town adopted Ordinance No. 03-20 adopting the Westfield Public Works "Wastewater Service Rules and Regulations" (the "Sewer Regulations"); and,

WHEREAS, on June 14, 2004 the Council adopted Ordinance 04-23 amending the Sewer Regulations; and,

WHEREAS, on October 13, 2003 the Council adopted Ordinance No. 03-01 adopting the Westfield Public Works "Water Service Rules and Regulations" (the "Water Regulations", together with the Sewer Regulations, the "Regulations"); and

WHEREAS, the Council recognizes that the Regulations may be particularly burdensome for certain property owners; and,

WHEREAS, it continues to be a goal of the Town to address health hazards in the Town's neighborhoods and to connect many neighborhoods on septic systems and wells to the Town's sanitary sewer system and water system; and,

WHEREAS, the Council is desirous of providing assistance to certain property owners to enable compliance with the Regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, INDIANA:

Section 1. There is hereby established a program to be known as the "Deferred Monthly Main Extension Payment Program" (the "Program").

Section 2. Department of Public Works (“DPW”) shall administer the Program.

Section 3. Assistance from the Program shall be in the form of an installment plan that allows qualified residents to pay their associated fee as part of their monthly sewer or water bill, over 144 months (12 years).

Section 4. The following criteria shall be given consideration in granting participation in the Program:

- a) The Program applies only to persons living in already developed areas of the Town.
- b) At least seventy percent (70%) of the area residents must commit to paying the Deferred Monthly Main Extension Payment along with their monthly bill for the Town to consider installing mains to serve the area. The Town, in its sole discretion, will determine the size of the area.
- c) The Program applies to residential property owners only.
- d) Applicants must own and reside in the residence for which they are requesting assistance.

Section 5. The “Cost Per Customer” for the extension of service is equal to the total cost of the main extension project for a neighborhood divided by seventy percent (70%) of the number of potential customers that can be served by the main extension. If greater than seventy percent (70%) of the number of potential customers commit initially to connecting, the cost per customer will be determined by dividing the extension cost by the actual number of initial customers. The Cost Per Customer will be reduced by an amount equal to three (3) year’s estimated revenues per residential customer (based on 5,000 gallons of water and/or sewer usage per month at the appropriate tariff for the area to be served), the value of one availability fee, and the value of one connection fee to arrive at the “Total Customer Deposit”. Each new customer agreeing to initially connect to the main extension will pay a \$500 down payment per each service rendered, and the remaining Total Customer Deposit is divided by 144 months and payable in equal monthly installments. This monthly installment is known as the “Deferred Main Extension Monthly Payment.” The Deferred Main Extension Monthly Payment will remain in effect for twelve (12) years.

Section 7. Potential customers will have ninety (90) days after being notified by the DPW in writing that a program is being offered. Any customer that doesn’t execute a Deferred Main Extension Agreement Monthly Payment Agreement with the DPW will forfeit any incentives proposed herein this ordinance.

Section 8. The customers are required to grant free of charge, upon the Town’s request, reasonable easements to enable, facilitate, and to minimize the cost of the extension of utility service to the designated area.

Section 9. Residents who do not initially connect to the main extension, but do connect subsequently will pay a different Total Customer Deposit than those customers who connect initially. Such residents who delay their connection will be required to pay the \$500 down payment, an additional down payment equal to the number of months which the Deferred Main Extension Monthly Payment has been in effect times the Deferred Main Extension Monthly Payment, plus the value of one availability fee and one connection fee at their prevailing rates. These customers will then be subject to the ongoing Deferred Main Extension Monthly Payment for the balance of their respective twelve (12) year period, if applicable. Therefore, an incentive exists for customers that sign up initially.

Section 9. At any time after the installation of the main, customers may at their option pay the then unpaid Total Customer Deposit in full. Customers electing to do so will no longer be subject to the Deferred Main Extension Monthly Payment.

Section 10. All provisions of the DPW Regulations remain in full force and effect.

Section 11. The actions of the Town staff working under this Ordinance are to be deemed in conformity with Town policy.

Section 12. Any portion of this Ordinance that may later be deemed invalid shall not effect the remaining provisions.

Section 13. This Ordinance shall be in full force and effect in accordance with Indiana law, upon its passage and any publication and applicable waiting period, as provided by the laws of the State of Indiana.

ALL OF WHICH IS ORDAINED this 14 day of Sept, 2006.

WESTFIELD TOWN COUNCIL

Voting For

Voting Against

Abstain


Robert J. Smith

Robert J. Smith

Robert J. Smith


John B. Hart

John B. Hart

John B. Hart


David Mikesell

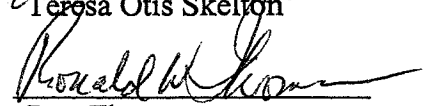
David Mikesell

David Mikesell


Teresa Otis Skelton

Teresa Otis Skelton


Teresa Otis Skelton


Ron Thomas

Ron Thomas

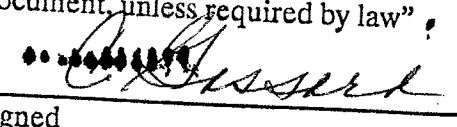
Ron Thomas

ATTEST:


Clerk-Treasurer, Cindy J. Gossard

This Ordinance prepared by:
Sue A. Beesley
Bingham McHale LLP

"I affirm, under the penalties for perjury,
that I have taken reasonable care to redact
each Social Security Number in this
document, unless required by law"


Signed

DEFERRED MAIN EXTENSION MONTHLY PAYMENT AGREEMENT

NAME OF DESIGNATED AREA _____

THIS AGREEMENT entered into on the _____ day of _____, 20____, by and between

(hereafter "Customer") and the Town of Westfield, Indiana ("Town"), WITNESSES THAT:

WHEREAS, the Customer and other prospective customers have requested the Town to extend its main so as to make [water/sewer] utility service available to their parcels, and the Town is willing to do so upon the following terms and conditions.

NOW, THEREFORE, in consideration of the covenants, agreements and undertakings hereinafter provided, the parties agree that:

- I. Property Involved and Standard Conditions. Customer, for himself and his grantees, successors, and assigns, hereby contracts for [water/sewer] utility service as provided in this Agreement and Ordinance No. 06-32 for a

Deferred Monthly Main Extension Payment for the real estate located in **Hamilton** County, Indiana commonly known as

(STREET ADDRESS REQUIRED), _____ (lot number, if known),

_____ subdivision, if known). This Agreement is a Special Contract and is not universally subject to the Town's standard regulations, incorporated herein by reference to the extent applicable.

- II. Main Extension Cost. The Town will install, own, operate and maintain the main extension, which will consist of [water mains and public fire hydrants/sewer mains] located as determined by policies of the Town, and related appurtenances and easements.

- (a) The Total Cost Per Customer of the main extension for the Designated Area served is \$ _____
- (b) The Total Customer Deposit, less a credit for three (3) times the estimated annual revenue per customer, less one availability fee, and less one connection fee, is \$ _____
- (c) The Deferred Main Extension Monthly Payment for this property in the Designated Area served, less a down payment of \$500 per month is \$ _____ for 144 months following placement in service of the main extension. The Total Cost Per Customer may be prepaid in full at any time during the 144 month period.

It is recognized and understood that the Total Cost for Customer, the Total Customer Deposit, and the Deferred Main Extension Monthly Payment are estimated in this Agreement, based upon the estimated cost of the main extension

and the assumption that no more than 70% of the number of potential customers commit initially to connecting to the main extension. The actual Total Cost Per Customer, Total Customer Deposit and Deferred Main Extension Monthly Payment will be calculated based upon the actual cost of construction and, if greater than 70% of the number of potential customers commit initially to connecting, the actual percentage of customers agreeing to connect. It is not presently anticipated that the actual Total Cost Per Customer, the Total Customer Deposit, or the Deferred Main Extension Monthly Payment would differ by greater than 5% from the estimated amounts set forth herein.

- III. \$500 Down Payment. Concurrently with the execution of this Agreement, the Customer has paid to the Town the sum of \$500, which represents the required down payment toward the Total Customer Deposit as prescribed in the Ordinance No. 06-32. If the Customer fails to connect to and take service from the main extension within thirty (30) days after the in service date of the main extension, service shall not commence until the prior unpaid Deferred Main Extension Monthly Payments are paid.

The Customer will receive and pay both the monthly bill for service and the Deferred Main Extension Monthly Payment.

- IV. Other Customers. It is anticipated that counterparts of this Agreement will be executed, and deposits will be made by other prospective customers desiring to connect to the main extension. Each such counterpart shall be substantially in the form hereof. Counterparts may be entered into after the in service date of the main extension with payment of the \$500 down payment and prior Deferred Main Extension Monthly Payment amounts, plus the cost of one availability fee, and one connection fee at their prevailing rates.
- V. Subsequent Customer Deposits. Each subsequent Customer shall be required to pay to the Town the required \$500 down payment and the prior unpaid Deferred Main Extension Monthly Payments, plus the cost of one availability fee, and one connection fee at their prevailing rates.
- VI. If Deposits Collected are Less than Total Required Deposit. Counterparts of this Agreement are being provided to each Customer. If the Town does not receive from each Customer an executed counterpart of this Agreement, together with the \$500 down payment required to be made by such Customer, so that the Town has received the minimum number of down payments required, the Town may cancel the main extension and return the down payments collected. In which event, this Agreement shall be void and of no effect.
- VII. Connection and Use. The Town will notify the Customer of the in-service date of the main extension, and the Customer shall connect to the main extension and commence service from the Town within thirty (30) days after said in service date. Service from the Town shall be used by the premises so connected to the main extension for a period at least equal to the duration of the Deferred Main Extension Monthly Payment. The cost of the service pipe from the Town's service pipe at or near the curb of property line to the premises shall be paid by the Customer as a separate expense and is independent of this Agreement and Ordinance No. 06-32.
- VIII. Cross Connection Protection. [Customer may elect to cap the private well formerly serving Customer's property or, alternatively, keep and operate the well as a separate water system. If the Customer elects to maintain the private well, the plumbing must be separated from that which is served by the Town. As long as private well is maintained on the premises, an Indiana

Department of Environmental Management approved backflow prevention device must be installed at Customer's expense on the service pipe linking to the Town's water system. Completion must be within thirty (30) days of the in service date.] or [Customer must abandon the septic tank and construct a DPW approved connection to the Town's sewer within thirty (30) days of the in service date.]

- IX. Transfer or Sale of Property. If the Customer transfers, sells, or otherwise disposes of the property corresponding to this Agreement, any successor owner or transferee to Customer shall pay the Deferred Main Extension Monthly payment and continue to be a customer of the Town for the duration of the 144 month period of this Agreement or until the Total Customer Deposit is paid prior to the end of such period.
- X. Easements. The Customer hereby agrees to grant free of charge, upon the Town's request, reasonable easements to enable, facilitate, and to minimize the cost of the extension of utility service to the Designated Area.

Must be completed by Customer:

CUSTOMER:

Print Name

Signature

Address of Property to be Served

Mailing Address of Customer, City, State, Zip

TOWN OF WESTFIELD, INDIANA

By _____

Printed _____

Title _____